

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2647 of 1979

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 - Yes

2 to 5 - No

M.K.UDEL

Versus

GUJARAT STATE

Appearances:

MR SHETY, FOR GIRISH PATEL, for Petitioner
MR UDAY BHAATT, ASSTT. GOVT. PLEADER for Respondent
Nos.1 to 3.
MRS KETTY A MEHTA for Respondent No.4 - (absent)
MR GN DESAI for Respondent No. 5 - (absent)
MR JD AJMERA for Respondent No. 6 - (absent)
MR HM BHAGAT for Respondent No. 7 - (absent)
MR PM RAVAL for Respondent No. 8 - (absent)

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 19/12/97

This petition is filed by the petitioners for a Writ of Mandamus or any other appropriate writ, order or direction directing the State of Gujarat, respondent no.1 herein, and to Housing Board, respondent no.4, not to recover rent in excess of Rs.14/- per month for tenement occupied by each of the petitioners in G and F colonies. A prayer is also made to refund any amount recovered in excess of an amount of Rs.14/- per month from the petitioners.

.RS 2

#. It appears that, when the matter was posted for admission, ad-interim relief was granted on October 15, 1979. The matter was finally disposed of alongwith other petitions by a common judgment and order passed by a Division Bench on 9th/10th September, 1992. Against the said judgment, the petitioners approached the Hon'ble Supreme Court and the Supreme Court remanded the matter to this Court by an order dated September 30, 1994. While disposing of the Special Leave Petition No.16029 of 1992, the Supreme Court recorded a statement made on behalf of the petitioners that they would not claim any ownership right over the houses and they would raise question regarding quantum of standard rent only.

#. We have heard Mr.Shetty for Mr.Girish Patel, learned counsel for the petitioners and Mr.Udhay Bhatt, learned Asstt. Govt. Pleader on behalf of respondent State authorities. It is submitted by learned counsel for the petitioners that though the respondent authorities have fixed a lesser rent for employees of Housing Board, they have fixed more amount for other employees. The impugned action is thus arbitrary, unreasonable, discriminatory and violative of Articles 14 and 19 of the Constitution. On the other hand, it was submitted by Mr.Bhatt, learned Asstt. Govt. Pleader, that considering the facts and circumstances of the case, an action was taken which cannot be said to be contrary to law and the petition deserves to be dismissed.

#. An affidavit-in-reply is filed by V.S.Vaidya, Accounts Officer working in the Office of Accountant General, Gujarat. In paras 5 and 9, the deponent has stated:

"5. With reference to paragraph 6 of the petition, I state that consequent on the formation of the State of Gujarat under the

Bombay Reorganisation Act, 1960, some quarters in the 'F' and 'G' colonies were placed at the disposal of the office of the respondent No.6 by the Government of Gujarat and the Gujarat Housing Board.

9. With reference to paragraph 11 of the petition, I state that the respondent No.6 has determined the rent recoverable from the employees of his office in respect of the tenements in the 'F' and 'G' colonies on the basis of the service rules applicable to the Central Government employees from time to time. I state that standard rent of one tenement in 'F' or 'G' colony has been determined at Rs.15/- or Rs.16/- respectively. I state that the actual deduction made in the salary for house rent is either 10 per cent of pay or the standard rent determined as aforesaid whichever is less in respect of each employee. I state that the office of the respondent No.6 and in ultimate analysis the Central Government bears the difference between the rent payable to the State Government/Gujarat Housing Board and the rent recovered from the employees."

#. In the facts and circumstances of the case, in our opinion, it would be appropriate if the petitioners are granted liberty to make representation to the authorities pointing out necessary facts and figures as also materials as to how they should not be directed to pay a particular amount as rent as it is not standard rent. So far as the points raised before this Court are concerned, they are included in the present petition. It is, however, open to the petitioners to invite the attention of the authorities to other points if they think fit. It is directed that the authorities will treat this petition as a representation. But it is clarified that if any petitioner intends to make application and/or representation through proper channel, i.e. through Head of the Department by sending a copy thereof to Executive Engineer (City Division), Multi-Storey Building, 5th Floor, Lal Darwaja, Ahmedabad, he is at liberty to do so. Such an application/representation can be made on or before January 31, 1998. The respondent authorities will treat this Special Civil Application as a general representation by all petitioners. The authorities will consider this representation as well as individual representation, if any, received latest by 31st of January, 1998 and will decide them as expeditiously as

possible preferably within four months, i.e. May 31, 1998 and pass an appropriate order. We may clarify that since we are not entering into the question of fixation of amount of standard rent, the authority will decide the said question. As we are not deciding the petition on merits, it is clarified that this decision will not come in the way of the petitioners if the matter is decided by the authorities against them and if they have right to approach any Court including this Court. In the result, the petition stands disposed of. Rule is discharged with no order as to costs.

Sd/-

(C.K.Thakkar,J.)

Sd/-

19-12-1997 (R.P.Dholakia,J.)

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